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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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BBC CHARTERING & LOGISTICS GMBH &  
CO. K.G.,

Plaintiffs,

Index No.: 08-cv-200 (WHP)

USIMINAS MECÂNICA S/A, PERINI O&G,  
PERINI CORP., O&G INDUSTRIES, INC., and  
UNIBANCO AIG SEGUROS S/A.

**DECLARATION OF DR.  
CHRISTIAN SMERA**

Defendants.

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Dr. Christian Smera declares under penalty of perjury as follows:

1. I am an attorney licensed to practice before the courts of Brazil. I have been in the practice of law for 15 (fifteen) years and have appeared before all fourteen City Civil Courts of Santos, State Justice Tribunal of São Paulo and Superior Tribunal of Justice in Brasília.

2. Under Brazilian law, all contracts issued in Brazil – or to be complied with in Brazil – are subject to Brazilian law. The courts of Brazil have authority and

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Christian Smera  
Attorney  
Hill Rivkins & Hayden  
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jurisdiction to hear all cases involving claims under bills of lading issued -- or to be complied with - in Brazil. A carrier who issues a bill of lading for a cargo shipped from Brazil makes itself subject to the jurisdiction of the courts of Brazil. Those rules and provisions are foreseen in Articles 88 and 90 of Procedural Civil Code (Federal law # 5863 of 1973).

3. On May 3, 2007, on behalf of my client, Unibanco AIG, I instituted a lawsuit at the 42<sup>nd</sup> Civil City Court in São Paulo, Brazil, against BBC Chartering & Logistics GmbH ("BBC"). The complaint set forth a cause of action for damage sustained by a cargo of bridge components transported aboard the M/V MALTE B from Vitoria, Brazil to New York. The bill of lading which covered the cargo was issued by BBC on June 16, 2006, in Vitoria.

4. The following details describe the lawsuit mentioned in paragraph 3 above:

Lawsuit # 583.00.2007.147593-8

42<sup>nd</sup> Civil Court of the City of São Paulo - Central Court.

Lawsuit amount: R\$ 1.369.459,59

Plaintiff: Unibanco AIG Seguros S.A.

Defendant : BBC Chartering & Logistics GmbH

2007  
JULY 28  
FEDERAL COURT  
CASE NO. 1:08-cv-00200-WHP

5. BBC answered the complaint on August 29, 2007. In its answer, BBC argued that the Brazilian court was incompetent to hear the case and argued that German law applied to the bill of lading and that any disputes should be arbitrated in Germany. Brazilian law does not recognize contracts which seek to deprive its courts of jurisdiction over suits by Brazilians against foreign carriers. This is due to provisions inserted in the same Article 99 of Procedural Civil Code (Federal Law 5809 of 1973). The court, consequently, held that it was competent to hear the case and rejected BBC's argument.

6. On February 12<sup>th</sup> 2008 a trial was held before the 42<sup>nd</sup> Civil City Court of São Paulo. After the trial, the court held BBC liable for the loss and held it liable to Unibanco AIG for the sum of R\$34,337.41 (approximately US\$32,000.00). Unibanco AIG has appealed the decision with respect to the amount of the damages and the case is presently before the State Tribunal of Justice of São Paulo.

I declare under penalty of perjury under the laws of the United States of America pursuant to 28 U.S.C. §1746 that the foregoing is true and correct.

Executed on May 27, 2008  
Signed: Christian Smeets  
At: Santos, Brazil  
Christian Smeets  
Advogado  
CRP 1893 - 28.328